

The Leesburg Planning Commission met on Thursday, June 2, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Christopher Murphy, Randy Greehan, Charles Mumaw, John Johnston, Lee Phillips, Calvin Grown, Brian Boucher and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Vice Chairman Wright.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Commissioner Bangert
Commissioner Barnes
Commissioner Hoovler
Commissioner Jones
Commissioner Kalriess
Commissioner Wright
Mayor Umstattd

Absent: Chairman Vaughan

NOTE: Commissioner Hoovler arrived at the meeting at approximately 7:40pm

ADOPTION OF AGENDA

Commissioner Bangert moved to adopt the agenda with the following change: hearing item #10, Subdivision and Land Development prior to item #8 Zoning items.

Motion: Bangert
Second: Kalriess
Carried: 5-0

Commissioner Hoovler was absent from this vote.

APPROVAL OF MINUTES

Commissioner Kalriess moved to adopt the minutes of the May 5, 2005 meeting as submitted.

Motion: Kalriess
Second: Barnes
Carried: 4-0-1
Abstain: Commissioner Wright
Commissioner Hoovler was absent from this vote.

CHAIRMAN'S STATEMENT

Vice Chairman Wright reviewed the agenda.

PETITIONER'S

None

SUBDIVISION AND LAND DEVELOPMENT

Tom Whipp of Dewberry & Davis came forward to speak about the Oaklawn at Stratford Townhouses. There will be approximately 186 units on 29 acres. This is located adjacent to Sycolin Road and there is a plan to proffer road improvements on the site. This includes the 4 laning of Battlefield from Sycolin to Tolbert Lane. Miller Drive will require some improvements near the Greenway. Lawson Road will also be four laned. This proposes a mix of townhouse units, including two car front load townhouses, and single car front load, along with street parking and alleyways. They will include parkland, green space and a tot lot. Staff has given conditional approval for this application.

John Johnston, Sr. Planner, presented the staff report. The site is in the southeast quadrant located on the west side of Sycolin Road. The north is bounded by Stratford Phase B single family homes and the south by Tolbert Lane. The approximately 29 acres are zoned Planned Residential Community (PRC). The staff recommends approval of this application conditioned upon the applicant satisfying review comments by staff.

Commissioner Barnes asked about the future commercial site and exactly what will go in there? Mr. Whipp stated that this is set aside for future office or retail, potentially daycare, banks, small stores. This will be developed separately as a different phase, and is not under consideration this evening. Mr. Barnes then asked about the parallel parking described along the residential roadways. Mr. Whipp said they wanted to give it a town-feel. Mr. Barnes said many people are not good at parallel parking. He asked if there was space for head-in parking. Mr. Whipp said the desire is to maximize parallel parking.

Commissioner Bangert asked if there was going to be more residential development. Mr. Whipp responded that there was one additional residential landbay. This will include 140 multifamily dwellings. Ms. Bangert asked if these would be under the same HOA as the town houses. The response was yes. Ms. Bangert asked further if there was parking at the pool site and if so, how many spaces. Mr. Whipp replied there were about 30 spaces and that there were about 10 parallel parking spaces near the tot lot. Ms. Bangert asked where the stream was located and if this would affect any of the houses. She went on to ask if any of the trees would be preserved, if a trail system is being proposed, whether there would be rip rap in culverts. Mr. Whipp described the tree preservation, described the trail system they are planning, and described the materials they will be using to shore up the culverts. Lastly, Ms. Bangert asked if the home construction would include any

special noise attenuation with regard to airport noise. She also asked that all potential property owners are made aware of the airport in the area. Mr. Whipp said he was not aware of any special construction for the homes with relation to noise attenuation.

Mayor Umstattd asked about language in the draft resolution with regard to a preliminary development plat vs. preliminary subdivision plat. If the DCSM didn't require rip rap, what alternative material would they use? Mr. Whipp couldn't really think of any off hand. He did say that there would be fencing near the pipe openings.

Commissioner Kalriess said when there is 66" diameter pipe, the DCSM needs to address standards for this.

Commissioner Jones asked about the garages in the rear of the units with relation to front load. Mr. Whipp said that all units had a garage, whether it be single or double. The breakdown is that each type has about 33%. Mr. Jones also has concern about channelizing the creek in the area, and cutting down the major tree stand. He feels that the applicant can develop this property with the current landscape in mind.

Vice Chairman Wright asked about the parking percentage on site that is not garaged? Mr. Whipp said they are either at or above what is required. Will the alleys be maintained by the HOA? Will this be disclosed up front or will there be contingency funds for the maintenance? Is the road network part of the overall network for the entire area? Mr. Whipp responded that the alleys' maintenance will be disclosed up front, that the road network is part of the overall picture. Lastly Mr. Wright asked where the water runoff goes? Mr. Whipp responded that it goes through the park into the retaining lake in Stratford. Commissioner Bangert asked if it was common to share stormwater management? Mr. Whipp said yes, this happens quite often.

Commissioner Bangert moved that the Oaklawn at Stratford Townhouses Preliminary Subdivision Plat be approved conditioned upon the applicant satisfying the review comments from the Department of Planning, Zoning and Development dated March 18, 2005 and revised May 20, 2005 and the Department of Engineering and Public Works dated April 18, 2005 and revised May 17, 2005, as agreed to by the applicant in a letter dated May 20, 2005. She further moved that the first sentence of the Department of Planning, Zoning and Development comment #12 be revised to read "At construction drawing submission, provide trail system for the 4-acre park per the proffers".

Commissioner Kalriess amended the motion to reflect the original date of review comments and then the revised date of review comments (reflected in motion above). The amendment was accepted.

Motion: Bangert
Second: Barnes
Carried: 6-0

ZONING

Christopher Murphy gave a recap of the application and what was discussed during the May 19 meeting of the Planning Commission. The critical failures in the application include: The application provides vague and conflicting conformance standards for the Concept Plan; Proffers do not provide adequate phasing of roadway improvements; The proposed PRC district fails to provide minimum area required by the ordinance; Minimum landscaping requirements not met along Russell Branch parkway and Crosstrail Boulevard; Failure to adhere to the land use mix standards in the B-4 District; Failure to comply with the recommended land use mix in the Business II Mixed Business category per the Town Plan; Doesn't comply with Zoning Ordinance Section 6.6.3 in the B-4 district; noncompliance with the AADP which could result in the obligation of the town to pay the County \$2 million; Route 7 frontage design contrary to the H-2 Corridor Design Guidelines and Failure to meet design policy direction dictating pedestrian oriented development.

Further the changes made since the May 19th Public Hearing still do not meet the Town Plan's use mix, definition of employment or definition of retail in either the Business I or Business II districts; The applicant has created their own definition of height and setback which are inconsistent with the Zoning Ordinance; They added language about substantial conformance, but conflicts still exist. The retail footprints were increased from 20,000s.f. to 50,000s.f. to 60,000s.f.; and in a meeting held June 1, the applicant indicated that proffers will be revised to construct all transportation improvements before the first occupancy permit is issued. On May 19, staff recommended denial of the Zoning Amendment, Town Plan Amendment and the special exceptions, and still recommends denial.

Michael Banzhaf, representative for the applicant came forward and pointed out that they had several people in attendance that could answer a variety of questions regarding the project. He then invited the commission to come forward and view the panoramic rendering of the project as it will be seen along Market Street. There was discussion on the tree save area, landscaping, buffering and the bridge. Spires, parapets and towers were discussed.

The Commission reconvened at their places and Vice Chairman Wright said that they would be entering into discussion on the Transportation design and impact of this application.

Commissioner Jones said he had some concerns about the elements of the application with regard to transportation. He is pleased with the gateway effect, but has concern that the applicant has not addressed the basics of the application. It is not the Commission's job to continually review incomplete applications. At this point there should be no proffer review, it should be in final form. This is a waste of everyone's time on such an important project. This application is not ready and he cannot vote on it tonight. He is disappointed that the application still has not met the town requirements.

Mr. Banzhaf countered saying that he couldn't meet with staff to get some answers required. He said that staff told him that it was at Planning Commission level at this point. He said they are more than happy to meet with staff and go over the details mentioned in previous dialogue.

Susan Swift said she did not tell them that they wouldn't meet with them, but that they could not, after three submissions, discuss this application further. Because of the timeframe and delay, this is the level of research available. In order to provide the commission with a proper and in-depth report, they need time between any meeting with the applicant and the due date of the report. Staff did meet with the applicant yesterday and reviewed yet another version of the application. Needless to say there was no time to prepare a report in a 24-hour timeframe. If staff needs to go back for a fourth or fifth time, they will. However, this should not be how it works. This application is asking for a change in a land use category because they don't meet it. They don't even meet the category they are applying for.

Mr. Banzhaf said they receive comments in an untimely fashion and don't have time to respond every time. He feels that the proffers can be worked out, and the requirements for the B-4 district that their applications don't currently meet, can be met. He feels that this is an outstanding application and is open to discussing whatever issues are at hand.

Commissioner Kalriess asked for clarity of what was being proffered when with regard to transportation. At this point he doesn't quite know what is being offered for Crosstrails Blvd. Also, when is the bridge going in? Mr. Boucher said that this is currently being offered as a bond, which means they can begin construction prior to the bridge. Mr. Kalriess went on to say there needed to be other access to the site besides the bridge. Perhaps a parallel road. He mentioned the Leesburg Corner access and the problems it has created. He asked that someone address this.

Calvin Grow, Transportation Engineer, came forward to explain what is being proffered for the site. Russell Branch Parkway will eventually tie in and will parallel Route 7. Mr. Kalriess asked how the active adults will be able to access sites such as Wegmans when trucks, etc. will be rolling through during the construction. Mr. Grow said that yes, this is what will take place. Mr. Kalriess asked when the Russell Branch Parkway and Route 7 alignment will occur? Mr. Grow said it would be some time, and that in the meantime there will be ongoing construction of the site. Mr. Kalriess had some concerns about this.

Commissioner Hoovler agreed with Commissioner Kalriess about the concerns of this transportation plan. Was this covered in the analysis? Mr. Grow responded yes, it was. With regard to the bridge, will the materials and facing be reviewed by VDOT, and has anyone seen the details? Mr. Boucher said no, staff has not yet seen this design. Al Kaub of VDOT said they have not seen the architectural design of the bridge yet. Mr. Hoovler said that since this is a gateway to the Town, they would like to have the opportunity to request a special design that is more attractive than a standard bridge. Does VDOT have any maintenance requirements for something like this? Mr. Kaub responded that the maintenance is something they will determine once they see the

design. They would be responsible for the landscaping maintenance also, and need to see that design too. Mr. Hoovler said he has concerns about the design and what VDOT will maintain.

Ed Byrne came forward and said they don't anticipate a big issue with this since it is merely redesigned concrete. In looking back they should have waited until they heard full comments from the Commission prior to submitting further plans. They will do what is necessary to try and perfect those areas where there is a lack of clarity. There are some areas where they do not agree with staff and this is what the Commission needs to review and make decisions on.

Mr. Hoovler said he wanted them to take the comments from Carradoc Hall, the owners of the Stone House, and the County Park people regarding the Stone House very seriously and look into how they can mitigate the impact on them. Mr. Byrne said this is a design issue and that VDOT will dictate that. Hopefully they can come to amicable agreement. This interchange is not unexpected, it has been in the plans for some time.

Al Kaub said that he spoke with the VDOT designer and said they will probably recommend that the access to the Stone House be closed. They have the right to close driveways. Carradoc Hall could also be affected. Commissioner Jones said there is state statute that says you can't landlock property, how do you plan to address that? Mr. Kaub said that people's lives takes precedence. Something will need to be done to provide alternate access. Mr. Jones went on to say that in the presentation the seal of the Town is to go on the primary support of the bridge. What will VDOT do about that? Will this be a problem? Mr. Kaub said as long as they don't have to maintain it, it should be ok.

Mayor Umstattd said that the closing of the entrance into Carradoc Hall is a very disturbing piece of news. She said they need to work together to avoid disruption of this business. Regarding the gateway bridge design, how long is the process for approval of the bridge design? Mr. Kaub said he was unsure how long it would take. The Mayor further discussed the noise study – will the noise attenuation necessitate another study? Mr. Kaub replied that since this is not a VDOT project, that no, they will not require this. The Mayor pointed out that lighting on the bridge has not been addressed. Does VDOT recommend that there be no lights on the bridge? Is this why the applicant had not suggested it? The response from the applicant was that they simply had not addressed this yet.

Commissioner Bangert said at the last meeting they indicated that there was no way to change the north access into the development and to bring the diamond closer to the eastern portion of the ramp. Mr. Kaub said it was the result of the change in interchange style. VDOT has to keep speeds and safety in mind when designing the interchange. VDOT may want to maintain the loop ramp style. Ms. Bangert asked if a diamond interchange could bring the ramp further down Rt. 7? Mr. Kaub said this was highly unlikely because of the stacking of cars and the timing of the traffic light. This is why the loop ramp design would be better here. There was some further discussion on the length of time it has, and will take VDOT to review this ramp design.

Commissioner Barnes asked if VDOT had given the approval to build a diamond. Mr. Kaub said that yes, for the most part this has been approved.

Vice Chairman Wright asked whether the 95% plan had been submitted to VDOT? Mr. Kaub didn't recollect that it had. If the plans are consistent with the concept plans, if everything remains, is it possible they would have approvals by September or October? Yes, that could be possible. Mr. Wright went on to ask about the closure of the driveways to Carradoc Hall and the Stone House. Is this based on the existing traffic volume or the fact that the interchange is coming in. Mr. Kaub said this was a combination of both. Mr. Wright went on to ask if this were a VDOT project with a loop interchange, would the same come into play? Is there a type of interchange that will leave these accessways? Mr. Kaub said there is a possibility that this could become part of a new parkway that would be a highspeed road to move traffic through the area. This is not final, but a potential. Mr. Wright said the driveways will be an issue no matter how the design is submitted.

Commissioner Kalriess asked what the accel and decel requirements were for VDOT standards on a 55mph highway. Mr. Kaub replied 600 feet, depending on the speed of the roadway. Mr. Kalriess went on to say that the frontage of the hotel property is 800 feet and wondered if there were any way to incorporate an accel/decel lane. Mr. Kalriess went on to ask about VDOT's opinion of parallel roads, and asked whether a specific ramp would be feasible as an alternate access to the hotel. Mr. Kaub said probably not because there would be people slowing down and speeding up in the same lane. Mr. Kalriess asked that they very carefully review the ingress and egress into the proposed development while the bridge is being constructed.

Commissioner Wright asked if anyone that was part of the traffic study in attendance at the meeting. He wanted to get an understanding of when the traffic study was done did it take into consideration the dead ending that will occur prior to final completion. Mr. Byrne introduced Mr. Terry Miller of Wells & Associates, who was part of the traffic study. Mr. Miller said they did look into the dead ending. Unlike the outlet mall access where much traffic shares the roadway that is not necessarily going to the mall or stores in the area, but on further or just through town on Rt. 15, this development is self contained. They will be the only ones on the road. Until roads are connecting to places they will remain self contained. Once through streets are built, there will be more through traffic, but more portals to serve it. Mr. Kalriess said the worst time at the outlets is on the weekends when people are moving around that area. Mr. Miller explained that everyone needs to drive through that intersection whether they are going to the outlet mall or not. This is why capacity is so high. However, in this new development they phased the study to time improvements as population increases and the roadways become a necessity.

Commissioner Barnes asked Mr. Grow if he reviewed and agreed with this traffic study. Mr. Grow said yes, they agree.

Commissioner Bangert asked Mr. Byrne asked why it was so important that their construction begin by late this summer. Mr. Byrne said that beginning in 2005 would allow the roadway to open by summer of 2006. If the start is delayed, the opportunity to open the interchange is set off by at least four months. Ms. Bangert asked about the logistics of shutting off the gas line during construction. Mr. Byrne said there is a seasonal aspect during which Washington Gas will allow them to turn the gas off. Rick Lanham of KSI said there is a small window of 2-2 1/2 months during which they will allow gas to be shut down. He explained the logistics. Basically they pay the gas company to sleeve off an area – in this way there is still limited gas feeding into existing homes, but allows for construction to occur.

Mayor Umstattd asked how long the stove burners would be off. Mr. Lanham said this will not happen, that the sleeve will supply enough gas to basically have no disruption in service.

Mr. Byrne suggested that discussing whether the application was pedestrian friendly might be the next topic of discussion.

Vice Chairman Wright recapped and asked whether or not the Planning Commission is comfortable with the uses, and the design issues.

Commissioner Bangert said they have not been released from a rezoning timeframe. How long does the applicant intend to bring out their people. You have policy issues where you disagree with staff. It would be easier for all of us to know what those issues are.

Commissioner Kalriess agreed that there were land use issues and the commission needs to know where the disagreement lies. The staff issues are valid. Also, is this session considered a worksession?

Vice Chairman Wright said that in a sense, yes, they agreed to further discuss this application during their regular meeting. He went on to ask Mr. Murphy the non-compliant issues. Mr. Murphy responded that two of the prominent ones are non-compliance with the land use mix in the B-4 district and the B-2 district. There is also the AADP issue and some outright policy issues. The applicant has not advised staff which ones they will stand firm on which ones they can work through. Minimum district size is 200 acres minimum, they are requesting 64 acres.

Commissioner Kalriess asked how the 200 acre threshold came about. Brian Boucher said in the PRC district it is 200 acres. There is some modification that can occur through special consideration. There must be justification for modification and this application has not done this. Mr. Kalriess restated his questions and Mr. Boucher said this has been in existence since 1990 and referred to the PRC and uses allowed. Mr. Murphy quoted Section 8.5.1 of the Zoning Ordinance that says this promotes development of self-sufficient communities, so a larger area was required. Susan Swift added that this was created to address the kinds of mixture sought by the 1997 Town Plan. It all comes down to a use mix that is not what the Town Plan sets out.

Vice Chairman Wright said he felt the application is unique, what type of district would this fit into? Susan Swift responded that B-4 is the most compatible. Mr. Wright said the deadline has not changed in order to keep this on track for Council consideration, so we would need to vote today. He asked the applicant to address their reasoning for B-4, B-2 or PRC.

Mr. Banzhaf responded that according to his calendar, there could be some time to readdress this during this cycle. He doesn't understand why there needs to be a gap, there is an extra Thursday in the month. There was some discussion on the timing and the turn around time for staff to prepare reports.

Commissioner Kalriess said there were policy issues that still need to be discussed. Mr. Wright recapped what the Commission had just said.

Commissioner Hoovler said that land use should be addressed first, before any other issues. There has been no information given regarding the applicant's B-4 land use.

Mr. Banzhaf said the property across the street is a PRC. A portion of the property on the southern portion abuts Business 2 property. Instead of a Business 1, which is existing zoning, you could build an office park or an industrial park today with no rezoning, no proffers and no interchange. They are willing to reduce the size of the rezoning and by doing so can still develop a portion as pure office. The Business 4 category provides for some flexibility in the range of uses. If you take this B-4 area, on the east side of the development, under the existing regulations there would be 50-70% office. This is what they are showing. Their inconsistency lies in the 15% maximum for commercial. They have more. If Wegmans wasn't in there, then they would comply. They requested zoning just for this site. Allowing for a mixture of uses, to include residential zoning, allows this application to work toward a self sufficient community. That's why they felt that a mixture of PRC and B-4 would be the closest districts that would hold this application. They feel that they meet the requirements under each of the zoning districts to move forward.

Commissioner Kalriess referred to table 6.6.4 which relates to the amount of retail and the issue of 15% and the referenced modification language. Brian Boucher came forward and explained the requirements available for modification, also stating that the PRC zoning has more flexibility. Commissioner Jones said in most jurisdictions this is part of a process and the request would go to Council prior to application. He questioned the town's way of processing this. He is concerned that this is inhibiting applicants to be creative with their applications. Are we accomplishing what we want?

Susan Swift said if the Commission wants this mixture of uses, they can find a way to make it work. This might require reapplication, but as it stands, the application doesn't meet requirements as it was submitted for today's ordinances.

Commissioner Jones would like to explore the areas of modification for types of things they are looking for and strive toward pursuing them.

Commissioner Kalriess asked if there was a solution if the Planning Commission liked this application? If not, what are the factors from a land use application that are causing concern. Do either of you have a solution?

Mr. Banzhaf said they can tailor the application to meet some conditions and hopes that they can work through the policies that there is disagreement on.

Susan Swift replied that this is not staff opinion, that the report that is based on the Town Plan and the Zoning Code. The differences are the mix of uses and the precedent that there is one big box that sits on this site. David Fuller explained what was put out in the town plan and what is being proposed. There is not the use of retail that will support a big box as it was submitted.

Mr. Banzhaf said there is encouragement of mixed uses and flexibility in the town plan. The submitted design character is in compliance with this policy. He once again requested another meeting to iron out the differences. He stated that he hoped the proposal fit within the policy guidelines for this area. With regard to the big box (proposed Wegmans), Mr. Banzhaf said that there needs to be a draw into the area to make it worthwhile.

Commissioner Bangert said there were going to be issues of contention. It is now the Commission's responsibility to decide which policies will prevail. The zoning has been a key issue and there has been no effort to compromise. If we can't get past zoning and land use without negotiation, then what does that leave us? We need to uphold the Town Plan and the Zoning Ordinance. Mr. Banzhaf said the Plan is a guide not a regulating document.

Commissioner Kalriess said we are getting down to retail employment vs. office employment. Vice Chairman Wright suggested that comments from each Commissioner occur at this point. The calendar dictates that the vote must occur this evening. Do we like the land use or not?

Commissioner Jones said we have a situation where the applicant and staff cannot come to agreement. Our position is not to take sides. He thinks we are at a crossroads and care must be taken not to compromise either the old town plan or the new town plan. We must do the best for the community. Things are happening quickly and we need to be proactive and make the best decision that we can.

Commissioner Kalriess has concerns with the employment mix and a decision must be made regarding the amount of retail. The plan has several problems. Again, this is the third submission and the applicant does nothing but keep changing the proffers. They are not addressing the key issues. He feels there are many problems but also many benefits with the project. The garages along Route 7, walkability, layout of retail with regard to

residential are all of concern to him. Changing proffers with regard to transportation is not good. Either proffer the roads or don't. There still needs to be agreement on the uses in the application. He will recommend denial if they can't come to agreement on the uses and proffers. There is still an overriding concern regarding retail. The key is based on the Town Plan. There is still too much work to be done to properly vote on this at this point.

Commissioner Hoovler was in consensus with Commissioners Jones and Kalriess. Three submissions later there are many issues that have not yet been addressed. They need to take comments seriously. The AADPs have not yet been addressed. This will not go anywhere until that has been resolved. He likes the concepts, but the details have changed too much. What are the reasons for this? The Zoning Ordinance and Town Plan are still the guides and the staff is abiding by them. They have the right to ask the questions required for compliance.

Mayor Umstattd has seen this in the past and said this is really going around in circles. In the past applicants have not taken the Planning Commission seriously and have basically depended on going to the Council. This Planning Commission is very professional and she asked that the applicant take them seriously. If this were to go to Council now, she could not support it. She has concerns about the Carradoc Hall access and hopes they will work to resolve this. The lack of office relative to retail is still of major concern. This is not a self contained development – they will need to import people to support a store such as Wegmans. The 600 homes proposed for the site definitely falls short of the over 2,000 homes it takes to support a grocery store. She voiced disappointment that this has not gotten further. She hopes that this will be in better shape prior to being submitted to Council.

Commissioner Bangert commented that the interchange is very intriguing and is something they want to see done. She is pleased that H-2 overlay is on the entire project and feels this will help the quality. She does feel that this has been a bait and switch. Things that are promised do not appear in the proffers. At the last public hearing the applicant said they would build all the roads up front. However, the night before the hearing she received a set of proffers that did not indicate that. The proffers need to say, very clearly, what is being offered. She has problems with the design of the site, specifically the garages and Wegmans along Route 7, the office in the southeast corner and the residential area in another quadrant. Make the quadrants a true mixed use. With regard to the conference center, 5,000 s.f. is not a conference center, it's a large meeting room. She asked for honesty from applicants, not word games.

Commissioner Barnes agreed with the previous commissioners' comments. He said he was excited when this was first presented, now it is all about a grocery store as the main focal point. The community initially presented was a vibrant one that did not focus on one thing. Tonight the only focus seems to be on Wegmans. Also, the proffers are too ambiguous. Clarify them. Also, what answer do you have for the \$2 million dollar question.

Randy Greehan said that the Town Attorney's memo states that the AADPs do still exist so the \$2 million question is that we could owe this amount to the County. Mr. Greehan said there is the possibility that the County could request this payment, and he would not like to see a court try to interpret the language based on a developers misinterpretation of the AADPs. This area is designed for employment use. Once residential units enter, it opens this up for exposure. The age restriction does not change this provision.

Mike Banzhaf said the AADPs were put into effect for a prior annexation attempt. The AADPs were superceded by the Town Plan and the Zoning Ordinance. The term of the agreement does last until 2009. This was put in to prevent the town from seeking city status prior to 2009. Also, offering school sites to the County was an important part of the AADP agreement. The payments are due to offset the impact on the County. They are offering to pay the facility charges required by the County of about \$12,000 per unit. The school site requirements have already been met and they have a letter to that effect.

Mr. Barnes asked if the town becomes liable for the \$2 million and if so, would you be willing to pay? Mr. Banzhaf said he needed to ask the applicant about that, but thought it was a reasonable request. He went on to say this was not pertinent since the Town Plan and Zoning Ordinance supercede the AADPs and it is not the Planning Commission's concern. Commissioner Bangert said this is the Commission's concern since they are asking that a land use be approved that has the potential for a payment by the town to the county in direct relation to the land use.

Commissioner Kalriess agreed and said if the applicant felt this wasn't an issue, then they should proffer the payment.

Mr. Greehan said he has reviewed the document regarding the school sites, but has not yet found the language referred to by Mr. Banzhaf. He said that he disagreed with Mr. Banzhaf's interpretation of the AADPs.

Vice Chairman Wright said he is intrigued with this application, but does not like the 140,000 s.f. retail with a big box anchor, minus appropriately proportioned office space. He doesn't want to set a precedent that would allow for more of the same to appear down the road. They still have two things, what the applicant has said and what the proffers state, and they don't match. The Special Exceptions should not have been accepted as they were submitted. The zoning map amendment doesn't provide the required detail to vote on. Even tonight the applicant was referring to yet another set of different plans. Approvals are based on substantial conformance with the Town Plan. There are many changes to make. There have been three submissions with the same comments each time. It's easy to say that you will build an interchange, but you have included loopholes that could allow for significant change. The only thing that needs to be voted on tonight is the zoning amendment, correct? Susan Swift replied this was true.

Eddie Byrne said he thought they did not have to make a decision tonight. He said they would like to sit down with staff over the next 30-days to clarify the application. They can extend their deadline until the Council decision and would like to work with staff in the meantime. Commissioner Wright said they have done the math and the advertising

required would be July 8 and 15 prior to Council's public hearing. Susan Swift said they have too large of a work load both case wise and with the town plan revision. If they want to resubmit, staff will require 30-days to review this. With all of the referrals required and thorough review of these, time does not permit this. Are you referring today's application, or a new one? The Planning Department, along with other departments, cannot adequately review this if they push it through. There are too many differences in the submittals.

Commissioner Kalriess said there were substantive issues relative to concerns about the layout. How much outside referral is required if landbays stay the same and the only differences would be the layouts of them. Susan Swift said all departments review the proffers. Mr. Kalriess said if all proffers were fixed, could they review just the layout? Ms. Swift said they still need 30-days from the date of resubmittal. It is not possible to accelerate review of this and other plans and she cannot recommend eliminating referral agencies.

Commissioner Hoovler said he understands that the applicant needs to go back and revise the concept plan. How long will that take? Mr. Byrne responded that they have another plan completed that has not yet been filed, and over the next 30-days they would like review of that plan. Mr. Hoovler responded that it would be at least 60-days before they can take new submissions into consideration. This takes the applicant out of their timeline. The applicant would need to also go through this whole process again for Council.

Vice Chairman Wright said the issue they have is working within the deadline. It sounds as though you are saying the proffers can be fixed, staff still needs the time to approve the "fixed" proffers. Mr. Byrne said they have the plans with them and could meet almost immediately on this. Mr. Wright asked if this was the best and final plan. Mr. Kalriess asked if it included concerns about walkability, layout, etc. Mr. Byrne said it includes their response to the concerns. Commissioner Bangert said the applicant thinks the staff can sit down and respond to this quickly. They need to research, not just sit in a meeting and come to conclusions. It is unfair to expect staff to sit down tomorrow to review this, just as it was when she received new proffers and statements the night before a Commission meeting and was expected to be prepared to address them. Commissioner Barnes agreed with Ms. Bangert.

Commissioner Jones said he felt we were burying ourselves and others in process. Look into how this can be handled better. He understands there is process that needs to be followed, but it should be modified to respond to the ways of today's world. A better planning process. He challenges the Commission to do this. It would require everyone to improve their work and provide better results.

Commissioner Kalriess expressed frustration at the length of the process, and that this is coming in at the eleventh hour. There will come a day when we are starving for development and then the process will move fast. He agrees with both Commissioners

Bangert and Jones. Expedite the process. He doesn't want to see any word games, state it simply, in writing and back it up.

Commissioner Barnes asked what the extension would be. Vice Chairman Wright went back through what the staff had said about the review timeframe, which is 30 days from submission. Can they, as a Commission, ask staff to expedite the review process. Should this be an open ended extension, 30-day or 45-day to get through further review.

Commissioner Jones commented on the 30-day time period for review. He envisions seeing the applicant take the best application and meet with staff to discuss all the kinks. Commissioner Wright said it was not the fault of staff, they need the 30-day review period for this to go through the proper referral process. Ms. Swift said they would be happy to meet with them, but they can't give a final decision at that point. The final opinion will come in the form of a written report. Commissioner Jones has four months worth of staff comments, can the applicant take these comments and either meet them or not. Why must there be another submission? Ms. Swift said there needs to be a legal record of the application. Mr. Jones is asking for an action based on the last submission. Ms. Swift replied this is the way all applications are treated, and need to be treated. Mr. Jones said there were major policy issues that need to be addressed. He is asking the applicant to respond to all comments made to date. Mike Banzhaf said the concept plan and proffers could be made available by next Tuesday for consideration at the July 7 meeting. Ms. Swift asked if they are submitting this on June 7 for the July 7 consideration. The packet goes to the Commission on July 1, which leaves only three weeks. Mr. Jones said if they are responding to what they have in front of them, then there would be little that they need to review.

Vice Chairman Wright asked if it was the will of the Commission to extend the time for action and vote to July 7. Mr. Banzhaf said he was asking for a vote by Council. Commissioner Kalriess asked if there was any reason they could not look at the submitted plan the same day as staff receives it, without any report. He doesn't want to wait until July 1 to receive it. Commissioner Bangert asked how they know if this resubmittal won't require a whole new public hearing. Mr. Greehan said if the plan comes in with the same intensity on the same property, then there might not be a required public hearing; if the intensity is increased, then a new public hearing will be necessary.

Commissioner Kalriess is concerned that if this concept plan comes in cleaner, the walkability issues, etc. still haven't been addressed. He wants to make sure that everyone receives what they are anticipating. Commissioner Bangert asked when the submissions are going to stop simply because the applicant did not make requested changes prior to this point. They had many chances to comply to requests. Commissioner Kalriess asked if this was basically the same plan with proffers clarified, or what. Mr. Byrne said the concept plan is the same. It would contain more detailed explanation to allow for better understanding of why the design was created the way it was.

Vice Chairman Wright said what is before them is an offer by the applicant to extend following protocol, which does not reflect what staff requires for proper review. Is it the will of the Commission to go with this offer? The Commission would receive it on July

1 and vote on it July 7 to pass on to Council for their August 9 meeting. Ms. Swift said the Council vote would not occur until September 13 because of the way the schedule works and the fact that Council is not holding a second meeting in August. Commissioner Wright asked about the advertising concern. Mr. Swift said there is a required timeframe for advertising. Any changes would need to be reflected in the ad.

Commissioner Hoovler said they are trying to make this work, but it just can't. They need the time to review and vote on this application. If they are only going to clarify proffers and not change the concept plan, then we are in the same situation. These are not just a few minor things, these are substantive.

Commissioner Kalriess asked that the Commission vote on this tonight and that they send recommendations to Council letting them know what would need to be changed reflecting the concerns of the commission and staff. Commissioner Bangert agreed. She has not heard items being addressed that they have discussed. Going for a fourth submission that may accomplish nothing is futile.

Vice Chairman Wright said he understands that the commission wishes to vote tonight.

Commissioner Jones asked if they were going to send a message to Council or just deny this. Commissioner Bangert said that the minutes should be attached to any report that goes to Council. Commissioner Kalriess asked if they could enumerate their concerns along with the vote so that the applicant has a clear understanding of what it is they need to address. Commissioner Jones doesn't think the minutes are succinct enough to enumerate the issues that well. Commissioner Bangert asked if Chris Murphy and Brian Boucher could highlight the issues and pass them on with the report to Council. Commissioner Jones asked if they were going to let the Council make the decision on land use. Commissioner Wright said they should enumerate the land use issues.

Commissioner Bangert moved to deny TLZM 2004-0005, Village at Leesburg, from I-1 to B-4 and PRC.

Commissioner Kalriess recommended that they include that:

- the professional office component at 30% of all commercial, excluding restaurant, hotel and other traditional retail uses.
- 30,000 s.f. limitation on tenancy of minor tenants with no more than three anchor tenants, size not exceeding 150,000 s.f., which does not include Wegmans or two other tenants.
- That the applicant proffer all road improvements to be constructed as recommended by the staff including the construction of Crosstrail Blvd to the southern boundary of the property.
- The applicant also address the possibility of integrating retail into the garage sites.
- The plan demonstrate an interior circulation plan, showing access to the garages and surface parking areas.

- See that the Wegmans parking lot have interior lot landscaping higher than our DCSM that would soften the parking in front of Wegmans.

Commissioner Hoovler commented on:

- Lack of specificity in the proffers
- Lack of detail in concept plan
- Lack of response to staff comments
- Shifting the building site by 10% and the buffer yards

Vice Chairman Wright commented at this point that the motion be amended to include the language “based on the staff report”.

Commissioner Hoovler offered a friendly amendment to include the language “based on the staff report” which has the analysis and the reasons for recommendation of denial. The Commissioners accepted this motion to amend the initial motion.

Commissioner Bangert had no additional discussion.

Commissioner Barnes had no additional Discussion.

Vice Chairman Wright echoed what had already been presented. He does want to see the proffers fixed. The application and the legal record don’t match and he also supports the motion to deny.

Commissioner Jones supported all comments. He feels that the Council will ask what the commission did during four iterations of this application. If an application is so terribly deficient as this, it doesn’t serve anyone’s purpose to have the process go on so long.

Motion:	Bangert
Second:	Barnes
Carried:	6-0

Chairman Vaughan was absent.

Vice Chairman Wright brought up TLTA 2004-0002, Village at Leesburg, Town Plan Amendment of Land Use Policy Map from Business I (Regional Office) to Business II (Mixed Business) and the Transportation element to replace the cloverleaf with a diamond; and third to amend the text of the Route 7 corridor study Paragraph on Page 8.7 of Town Plan.

Commissioner Bangert made the motion to deny TLTA 2004-0002 based on reasons listed in the staff report.

Commissioner Karliess asked what the benefit or detriment approval of this would cause. Commissioner Bangert said you are adding a residential to an office designation.

Mr. Kalriess said if the AADPs were addressed in a proffer then he would not have a problem with the TLTA. Commissioner Jones agreed with this.

Commissioner Wright supported the motion to deny the overall applications. If the other issues in the application had been addressed he would not have an issue with the cloverleaf and doesn't want to send a mixed message. They are supporting the diamond interchange.

Motion: Bangert
Second: Barnes
Carried: 6-0

Chairman Vaughan was absent.

Commissioner Wright separated out TLSE 2004-0019, Village at Leesburg, Multi family residential in the B-4 District.

Commissioner Hoovler moved to deny TLSE 2004-0019 Village at Leesburg Multi Family residential in the B-4 District based on reasons listed in the staff report.

Commissioner Bangert said this is close, while it doesn't exactly meet the acreage, she did not have the issue with multi-family other than it did not specifically meet the acreage set out in the town plan.

Commissioner Kalriess has no issue with the application, however, he would have to deny it because it is a special exception and he will not approve any special exceptions that don't meet the requirements of the special exception. When they get a concept plan approval, then they could come back with the special exceptions. Don't submit special exceptions if they don't have the proper information.

Commissioner Jones agreed, saying this is a matter of process, and he will deny based on that.

Commissioner Wright said he is supporting denial because the information is deficient.

Motion: Hoovler
Second: Barnes
Carried: 6-0

Vice Chairman Wright brought forward the special exceptions pertaining to the parking garages as follows: TLSE 2004-020 – 2 story garage, Landbay A; TLSE 2004-021 – 4 story garage, Landbay B; TLSE 2004-022 – 4 sotry garage, Landbay B; TLSE 2004-023 – 3 Story Garage, Landbay A; TLSE 2004-025 – 5 story garage, Landbay E.

Commissioner Hoovler moved to deny TLSE 2004-020 – 2 story garage, Landbay A; TLSE 2004-021 – 4 story garage, Landbay B; TLSE 2004-022 – 4 story garage, Landbay

B; TLSE 2004-023 – 3 Story Garage, Landbay A; TLSE 2004-025 – 5 story garage, Landbay E, Private Parking Structures, Villages at Leesburg, for the reasons contained in the staff report.

Commissioner Hoovler said there were no details for the appearance of the structures, and he asked the applicant to provide more detail on secondary uses surrounding the garages.

Commissioner Kalriess commented on TLSE 2004-023 stating there is an H-2 overlay so the BAR will have some oversight. He asked the Commission to seek more detail on things such as lighting. He recommended that there be no elevated lighting on the top deck. He would like to recommend that in Landbay E the applicant be given an opportunity to simplify the faces of the garage so that it would not make any difference how they face. Along Rt. 7 and along entry ways to the site, he would like to see architectural design that is appealing from the roadways.

Vice Chairman Wright said his recommendation for denial is the lack of specificity in the application where there is no detail to consider.

Motion: Hoovler
Second: Kalriess
Carried: 6-0

Chairman Vaughan was absent.

Vice Chairman Wright brought forth TLSE 2004-024, Village at Leesburg, Bank with Drive Through and TLSE 2004-026, Hotel with Conference Center for consideration.

Commissioner Kalriess moved to deny TLSE 2004-024, Village at Leesburg, Bank with Drive Through and TLSE 2004-026, Hotel with Conference Center on the basis of the staff report dated May 19, 2005.

Commissioner Bangert did not want to see any pad sites. She feels that they are not conducive to the walkability of the project. The hotel and conference center, while she likes the idea of a full service hotel, with the 5,000s.f. conference center, this is a meeting room, not a conference center.

Commissioner Kalriess said the problem is that this is a standalone hotel. They have missed the opportunity because they have not integrated it into the site.

Motion: Kalriess
Second: Hoovler
Carried: 6-0

Chairman Vaghan was absent.

Vice Chairman Wright announced this concluded the Villages of Leesburg vote and he was disappointed that it ended this way but encouraged the applicant to come back with the detail and specificity required to fully review this application.

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVE'S REPORT

None

STAFF AND COMMITTEE REPORTS

Susan Swift announced that on June 23 there will be a vote on the Town Plan and a follow up briefing from the consultant on the Crescent District.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The motion was made to adjourn at 12:24am

Presented by:

Approved by:

Linda DeFranco, Commission Clerk

Kevin Wright, Vice Chairman